

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK**

JUSTIN SATHUE,

Civil Action No.

Plaintiff,

vs.

**DEFENDANT FIRST DATA
CORP.'S NOTICE OF REMOVAL**

EQUIFAX INFORMATION SERVICES LLC,
CITIGROUP INCORPORATED, and
FIRST DATA CORP.,

Defendants.

Defendant First Data Corp. (“First Data”), pursuant to 28 U.S.C. §§ 1441 and 1446, respectfully submits this Notice of Removal of the action currently pending in the Civil Court of the City of New York – Manhattan Small Claims Part, to the United States District Court for the Southern District of New York.¹ In support of this Notice of Removal, First Data states:

1. On or around February 27, 2020, a Statement of Claim was served upon First Data entitled *Sathue v. First Data Corporation*.
2. Attached hereto as **Exhibit A** is a copy of the Statement of Claims served on First Data and Citigroup, which constitutes all process, pleadings and orders received or otherwise known to First Data in the Civil Court action pursuant to 28 U.S.C. § 1446(a).
3. This Notice of Removal is filed within 30 days of receipt of the Statement

¹ First Data Corp. reserves all of its rights, claims and interests that it may have to any defenses available to it, including the fact that Plaintiff has sued the wrong party.

of Claim and is therefore timely under 28 U.S.C. § 1446(b).

4. Venue in this court is proper pursuant to 28 U.S.C. § 1441(a).

5. This Court has original jurisdiction herein pursuant to 28 U.S.C. § 1331 because it presents a federal question under the Fair Credit Reporting Act, 15 U.S.C. §1681, *et seq.* (“FCRA”), in as much as the claims in the Statement of Claim are dependent upon a violation of the FCRA. *See Exhibit A* (alleging First Data’s “willful failure to comply with FCRA as amended”); *Rosello-Gonzalez v. Calderon-Sera*, 398 F3d 1 (1st Cir. 2005); *Mercedes v Bldg. Serv.* 32BJ, 14-CIV-713-PAC-SN, 2015 WL 845729, at *1 (S.D.N.Y. Feb. 26, 2015) (removed from Civil Court of the City of New York to S.D.N.Y. based on federal question jurisdiction).

6. Under 28 U.S.C. § 1441(c) this entire case—which joins both removable and non-removable claims—may be removed and the District Court may determine all issues therein.

7. A Notice of Filing of Notice of Removal is being filed simultaneously with the Civil Court of the City of New York – Manhattan Small Claims Part and provided to all parties as required by 28 U.S.C. § 1446(d). A copy of such notice is attached as **Exhibit B**.

8. All defendants to the Civil Court action have consented to this removal.² A copy of Defendant Equifax’s consent to removal is attached as **Exhibit C**. Defendant Citigroup will be filing its consent to removal separately hereafter.

² On March 2, 2020, a representative of counsel for First Data Corp. appeared at the Civil Court of the City of New York to obtain information on the pending action. The Court refused or was

9. If any question arises as to the propriety of the removal of this action, First Data requests the opportunity to brief any disputed issues and to present oral argument in support of its position that this case is properly removable.

10. Nothing in this Notice of Removal shall be interpreted as a waiver or relinquishment of First Data's right to assert any defense or affirmative matter.

WHEREFORE, Defendant First Data Corp. hereby removes the above-captioned action from the Civil Court of the City of New York – Manhattan Small Claims Part, to the United States District Court for the Southern District of New York, and requests that further proceedings be conducted in this Court as provided by law.

Dated: March 6, 2020

FOX ROTHSCHILD LLP

By:



Philip Langer, Esq.

Joshua Horn, Esq. (to be admitted *pro hac vice*)

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Attorneys for Defendant First Data Corp.

otherwise unable to provide any docket sheet or filings, but advised that First Data Corp., Equifax and Citigroup are the defendants to the action. To the extent the Court advised First Data Corp. incorrectly, and there are additional defendants that Plaintiff discloses, First Data Corp. will immediately move to obtain their consent.